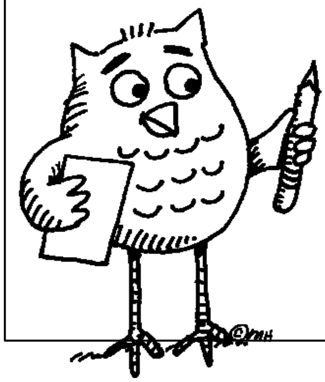

Waiver Wise

Technical Assistance for the Community Options Program Waiver COP-W

Wisconsin Department of Health & Family Services • Division of Supportive Living
Bureau of Aging & Long Term Care Resources

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Credit Card and/or Loan Debt as a Medical/Remedial Expense

For years, it was not allowable for care managers to use the monthly dollar amount an applicant/participant was paying on a credit card or bank loan for an item that would be considered a needed item for the person's health or disability as a medical/remedial expense. In fact, in Volume 02, Issue 01 of Waiver Wise (Medical/Remedial Expenses) that was released in May 2002, the following question and answer was given:

Can credit card payments, cash advances, bank loans, reverse or second mortgages that have been used to pay past medical bills qualify for a medical/remedial expense deduction?

No, medical bills that have been paid by the use of a third party/entity do not qualify as a medical/remedial expense.

However, based on an Administrative Law Judge's hearing decision, it now is allowable to count as a medical/remedial expense the monthly payment an applicant/participant makes to a credit card company or bank **if certain criteria are met**. The most important of these is that the item/service be considered a medical/remedial expense by BALTCR and/or that the item/service is something that the waiver would fund.

The care manager should follow these steps to determine if the monthly credit card, loan, reverse or second mortgage, or other debt payment can be used as a medical/remedial expense:

1) Verify that the item/service paid for by the credit card, loan, cash advance, reverse or second mortgage, or other debt qualifies as an allowable medical/remedial expense, or as a waiver allowable item or service.

2) Verify the cost of the specific allowable expense charged to the credit card, bank loan, cash advance, reverse or second mortgage, or other debt by obtaining the original bill or receipt from the participant, debtor or vendor. If the care manager needs to obtain a copy of the bill or receipt from a debtor or vendor, the care manager must obtain written permission from the participant.

3) Determine the monthly payment the participant will be making on the remaining debt and obtain the individual's signed statement (see Question 3 for suggested language).

4) Divide the remaining cost of the item by the monthly payment the applicant/participant is going to make to determine the number of months to use as a medical/remedial expense.

5) Relay the agreed upon dollar amount to the ESS as a medical/remedial expense. This dollar amount will be used as a deduction from income to determine Group B cost share, or, to establish financial eligibility for Group C. For Group C participant, the monthly payment can also count towards meeting the participant's Spenddown. When the debt for the specific item has been paid, the care manager should redetermine the medical/remedial expenses. The new medical/remedial expense may impact the amount of a cost share for a Group B or the eligibility for a Group C.

Important notes:

a) DO NOT count the interest charged on the debt. The care manager should only count the principal cost of the item itself (plus tax) – minus what has already been paid on the item. The result is the care manager should only look at the remaining balance for the item.

b) If a participant chooses to make a consistently larger or smaller monthly payment, the care manager should relay this new dollar amount to the ESS. *However, it will be important for the participant to understand how changing the monthly payment amount will impact his/her cost share obligation or financial eligibility. The care manager should partner with the ESS to determine how a change in the payment amount will impact the participant and share this information with the participant.* If a new dollar amount has been agreed upon, the care manager should recalculate the remaining dollar amount on the debt and divide by the new monthly payment to determine the number of months to count as a medical/remedial expense. It is important to obtain a new, signed statement when changes occur. (See Question 3 for suggested language).

c) When the time agreed upon has lapsed, the care manager should stop using this payment as a medical/remedial expense. ***Suggested tip*****:** The care manager should "flag" the case file a month or two before the anticipated end period. This will enable the care manager to re-examine any other medical/remedial expenses the participant may have. As mentioned previously, once this debt is paid and is no longer considered a medical/remedial expense, it may impact the participant's cost share (for Group B) or when determining financial eligibility (for Group C).

Commonly Asked Questions

Question 1 – Can the monthly payment a participants makes to repay on a debt that is on a credit card, loan, second or reverse mortgage, cash advance, or other debt be considered a medical/remedial expense under COP, COP-W, CIP II, CIP 1-A, CIP1-B, CSLA, and BIW?

It depends upon what the item/service being "paid off" was for. For a COP, COP-W or a CIP II applicant/participant, if the item/service being paid off by one of those methods listed is something the Bureau of Aging and Long Term Care Resources (BALTCR) would consider a medical/remedial expense or a waiver allowable item, then the answer is yes. Similarly, for a COP, CIP-1A, CIP 1-B, CSLA or BIW or Bureau of Developmental Disabilities Services (BDDS) applicant/participant, if BDDS would consider the item/service being paid off a medical/remedial expense, then the answer is yes. If the item/service being "paid off" by one of those methods listed is something that BALTCR or BDDS would not consider a medical/remedial expense, then the answer is no.

Question 2 – Once the care manager determines that what was charged to a credit card, or taken out as a loan, second mortgage, reverse mortgage, cash advance, or other debt is allowable as a medical/remedial expense or something the waiver would pay for, what does he/she do?

The care manager does four things. 1) The care manager needs to learn what is the remaining balance left on the allowable item, 2) The care manager needs to learn what dollar amount the participant is going to pay each month to pay off the item. 3) The care manager should then relay this information to the ESS as part of the medical/remedial expenses. 4) Then, the care manager must determine how many months he/she will use this monthly payment as a medical/remedial expense.

Example: Mr. Robert Smith's name has come to the top of the waiting list and the county is able to assist him with waiver program funding. As the care manager discusses Mr. Smith's monthly income and his various out-of-pocket expenses, Mr. Smith relays that 3 months ago he purchased a motorized scooter and paid for it with his Visa Card. He said the price of the scooter was $1,200.00 and he is paying $25.00/month to pay it off. Before the care manager can count the $25.00/month payment as a medical/remedial expense, she sees the actual receipt for the item to verify the item purchased, the cost and the date obtained. Because the information provided by the participant has been confirmed, the care manager determines that $75.00 has already been paid towards the purchase of the scooter ($25.00 x 3 months the participant says he has paid = equals $75.00). As a result, the care manager determines there is a remaining balance of $1,125.00 left on the scooter. The participant states he is going to continue making a $25.00 monthly payment towards his credit card debt. The care manager divides the remaining cost by the monthly payment (1,125.00 ÷ $25.00 = 45 months).

Question 3 – How does a care manager document that such an arrangement has been agreed upon?

It is important for the care manager to obtain a statement in writing that confirms whatever arrangement has been agreed upon. This should be kept in the participant's file. Please see suggested language below:

I, Robert Smith, hereby confirm that I will be making a $25.00/month payment toward ________________in payment of a motorized scooter. The original cost was $1,200 and the remaining balance as of ______________ is $1,125.00. My care manager, ___________, has calculated that the $25.00 payment will be used for 45 months as an out-of-pocket medical/remedial expense ($25.00 x 45 = $1,125.00). At the end of 45 months, the $25.00 payment will cease to be used as a medical/remedial expense. I understand that my cost share may increase accordingly, unless other out-of-pocket medical/remedial expenses become known.

I understand that non-payment of this debt will exclude the $25.00 from being used as a medical/remedial expense and that my cost-share payment will be affected. In addition, I understand that paying off the debt prior to the agreed upon time, will exclude the $25.00 from being used as a medical/remedial expense and that my cost-share payment will be affected.
If I reduce or increase my monthly payment, I will notify my care manager who will inform the Economic Support Specialist. I understand my cost share and/or financial eligibility will be redetermined.

By my signature I attest that I understand this statement and that I have receive a copy of it.

___________________________________ ___________
Signature of participant or guardian of estate or Date
Conservator or Representative Payee

Question 4 – What if the original invoice/receipt, or a copy of the original invoice/receipt for the item cannot be obtained from either the participant, debtor, or the vendor?

Without documentation of the original cost, the item purchased, or, the date the item was obtained, the care manager <u>cannot</u> count any payments a participant says he/she is making towards a debt as a medical/remedial expense.

Question 5 – How would a care manager calculate the amount of a deduction when there are several charges on the credit card, but only two of the items would count as allowable medical/remedial expense?

Only the portion of the debt that can be substantiated by an original bill or invoice illustrating the allowable medical/remedial or waiver allowable item should be counted. If the remaining debt is less than the original bill, count only the outstanding debt amount. Use only actual payments (according to the signed statement) being made by the participant as the medical/remedial expense.

<u>Example:</u> Mrs. Rosa Mayberry's name has just come to the top of the county's waiting list and the county is now able to offer her assistance. Mrs. Mayberry is a widow and her income is $1,900.00/month (she is a Group C participant). As the care manager discusses Mrs. Mayberry's various out-of-pocket expenses, Mrs. Smith relays that 5 months ago she purchased a manual wheelchair for $400.00 and put that on her MasterCard. Two months ago she hired a contractor to construct a wheelchair ramp to make her home more accessible. The cost of the ramp was $3,000 and she put that charge on her Visa Card. During the visit, the care manager sees the original receipt and invoice for the items and confirms the cost and date of purchase. Note: The care manager notices the outstanding balance on Mrs. Mayberry's MasterCard is $6,000. However, it is determined that is due to other, non - medical/remedial expenses which were charged to her credit card plus accumulated interest. These other non-medical/remedial expenses and the interest portion are not allowable medical/remedial expenses. Only the original cost of the allowable medical/remedial item(s) is countable. Mrs. Mayberry informs the care manager that she sends $10.00/month to MasterCard for the wheelchair, and $100.00/month to Visa to pay for the wheelchair ramp. Because both items are allowable as a medical/remedial expense, the care manager determines 1) the remaining balance for the items, 2) the medical/remedial amount and 3) how many months she will use these payments as a medical/remedial expense.

In this example, because the participant states she has paid $10.00/month for the wheelchair and $100.00/month for the wheelchair ramp – the care manager determines the participant has paid $50.00 towards the cost of the wheelchair, and, $200.00 towards the cost of the ramp thus far. The remaining balances for the items are $350.00 for the wheelchair, and $2,800.00 for the wheelchair ramp. In addition, the care manager determines that the participant has $30.00/month in over-the-counter medication costs. Because the participant is a Group C, the care manager must give both medical/remedial and Medicaid card costs to the ESS. For the medical/remedial expenses, the care manager determines between waiver services, the over-the-counter, and the payments the participant makes towards the credit cards, the dollar amount = equals $1,300.00. The breakdown is as follows: $30.00/month over-the-counter medication costs, $110.00/month credit card payments ($100.00 + $10.00), and $1,160.00/month in waiver services each month.

The care manager calculates that at the agreed upon payment of $10.00/month for the wheelchair, the wheelchair will be paid off in 35 months. With regard to the wheelchair ramp, based upon the agreed upon payment of $100.00/month, the ramp will be paid off in 28 months. A statement similar to the one used in Question 3 is prepared. The statement will contain information relating to when the payments will cease to be counted for eligibility purposes.

Please note: Ordinarily, for Group B participants, the care manager may choose to monitor the medical/remedial expense and payments at the 6-month or yearly review. However, for a Group C participant whose financial eligibility is based on whether or not the participant has incurred and paid (if single) their Spenddown every month, it will be necessary for the care manager to review the medical/remedial expenses every month. Note: the monthly payment the participant pays towards the credit cards can count towards meeting the Spenddown. For an example on how a care manager can track or monitor the monthly credit card payments for multiply items, see the chart below:

CREDIT CARD PAYMENT (MEDICAL/REMEDIAL) DEBT TRACKING TOOL

1. **Wheelchair** (Original cost $400.00. Monthly payment of $10.00). Remaining balance = $350.00. Count payments for 35 months.	2. **Ramp** (Original cost $3,000. Monthly payment of $100.00). Remaining balance = $2,800. Count payments for 28 months.
Month 1 (December 2002)	Month 1 (December 2002)
Month 2 (January 2003)	Month 2 (January 2003)
Month 3 (February 2003)	Month 3 (February 2003) etc.
Month 4 (March 2003)	Continue until you reach:
Month 5 (April 2003) etc.	Month 28 (March 2005) **STOP**
Continue until you reach:	
Month 35 (October 2005) **STOP**	

Once the debt has been paid, the payments can no longer be counted towards meeting and/or paying the Spenddown each month. As mentioned earlier in this Technical Assistance document, it will be important for the care manager to “flag” this Group C case prior to the time these payments will cease. In some cases, unless other medical/remedial expenses are identified, program eligibility may terminate for a Group C participant. As a reminder, in cases where financial ineligibility occurs, a care manager must send the participant a 10-day notice informing the participant that waiver services will end and inform ESS.

Question 6 – How does this work if a participant is paying back a debt which includes non medical/remedial items and medical/remedial items?

The care manager determines what portion of the loan is for the waiver allowable item or medical/remedial expense and relays that dollar amount to the ESS as a medical/remedial expense. The care manager then calculates how many months he/she will use that portion of the loan payment as a medical/remedial expense.

Example: Mr. Scott Johnson purchased a van in March 2001. Because of his physical disabilities, the van needed to be modified for accessibility. The cost of the van itself was $27,000 and the cost of the modifications to the van cost $9,000. To pay for this van with modifications, Mr. Johnson took out a bank loan for $36,000. By the time Mr. Johnson’s name comes to the top of the waiting list and is able to be the waiver, he has an outstanding balance to the bank for the accessible van for $33,000 – which includes interest. Mr. Johnson informs the care manager that he pays $480.00/month to the bank to repay this loan. Here are the steps the care manager needs to take:

a) The care manager will <u>only</u> focus on the dollar amount involving what would be allowable as a medical/remedial expense or as a waiver allowable item. In this example, the $9,000 for the modifications to make the van accessible.
b) The care manager needs to determine how much of the $480.00/monthly payment is for the cost of the van itself, and how much goes towards the modifications. Calculating what percentage of the loan is for the modifications itself is easily done. In this example: $9,000 is 25% of the total loan of $36,000 ($36,000 x 25% = $9,000). As a result, the care manager will use 25% of the $480.00/monthly payment to determine how much of the loan repayment goes towards the legitimate medical/remedial expense. The calculations are as follows: $480 x 25% = $120.00. Therefore, the care manager can only count $120.00 of the $480.00 payment as a medical/remedial expense.
c) The $120.00 is the dollar amount the care manager will relay to the ESS, plus any additional expenses she and Mr. Johnson have discussed, as medical/remedial expenses.
d) Lastly, the care manager will determine how many months she will allow this $120.00 as a medical/remedial expense. As mentioned earlier, the van and modifications were purchased and completed in March 2001. It is now December 2002. Mr. Johnson has been repaying his loan for the accessible van for 22 months. The care manager determines that in essence, Mr. Johnson has paid $2,640 towards the van modifications alone ($120.00 x 22 months = $2,640.00). The care manager then determines the remaining balance for the van modifications. In this case it is $9,000 - $2,640 = $6,360.00. Determining how many months the care manager will be able to count this portion of his loan payment as a medical/remedial expense is as follows: $6,360.00 ÷ $120.00 = 53 months.

Question 7 - What happens if the total dollar amount due on the credit card is less than the original purchase price for the allowable medical/remedial?

The care manager needs to determine the remaining cost of the item itself before he/she can determine how many months to allow it as a medical/remedial expense.

<u>Example</u>*: Mr. Otto Marx purchased a lift chair due to his arthritic knee one year prior to being on the waiver program. He shows the care manager the original receipt and it confirms the cost of the lift chair was $900.00 and he charged this item to a credit card in December 2001. By the time Mr. Marx's name comes to the top of the waiting list and the county is able to assist him with waiver program funding, the credit card shows an outstanding debt of $700.00. Mr. Marx informs the care manager that he has been sending $25.00 each month to the credit card company to pay off this debt. The care manager calculates that Mr. Marx has paid $300 towards this lift chair ($25.00 x 12 months prior to being on the waiver) = $300. As a result, the care manager will use $600.00 as what is owed on the lift chair even though the credit card shows a balance of $700.00. The excess in this case reflects accumulated interest and fees.* ***The care manager can only consider the remaining debt on the item itself when determining how many months she will count this payment as a medical/remedial expense.*** *As a result, $600 ¸ $25.00 = 24 months. The care manager will count the credit card payment for the lift chair for 24 months and tracks it accordingly.*

Question 8 – A COP-W participant is making payments on a credit card bill for a lift chair originally purchased for her husband, who now resides permanently in a nursing home. The participant is currently using the lift chair and the need for it has been identified in her care plan. Can the monthly dollar amount the participant is paying towards this debt for an item originally purchased for someone else be counted as a medical/remedial expense?

Yes, as long as the item is identified in the care plan and the participant is using the needed item, the monthly payment she makes to the credit card company is an allowable medical/remedial expense.

Question 9 – What are some examples of items/services that may have been charged to a credit card, or, taken out as a loan that the monthly payment <u>would not</u> be allowable to count as a medical/remedial expense.

The following is not an all - inclusive list. Rather, this should give you some examples of items/services that are not considered medical/remedial expenses:

- Paying off a home equity loan for home improvements (new roof, windows, furnace, carpeting, etc.)
- Making payments on a credit card for an engine repair, tires, oil change, etc on an accessible van. Reason: the repairs/maintenance are not related to the accessible features of the van.
- Paying back the participant's own school loans
- Paying back a loan the participant took out to pay for their children's college education
- Making payments on a credit card for expenses related to taking a vacation
- Paying on a credit card for items not related to the participant's health or disability (knick knacks, equipment/supplies for pursuing a hobby, furniture not related to a

disability or health, clothing not related to a disability or health, gifts for relatives/friends, etc.)

Question 10 – What happens if the participant decides to pay off the credit card, loan, etc earlier than anticipated?

If the debt is paid off earlier than what was agreed upon, the care manager can no longer count that monthly payment as a medical/remedial expense. The care manager should review with the participant other medical/remedial expenses and determine the new dollar amount for medical/remedial expenses. This information should then be relayed to the ESS. Depending upon whether or not additional countable medical/remedial expenses are available, the Group B participant may end up with a monthly cost share (or higher cost share). The Group C participant may potentially lose eligibility because he/she no longer has sufficient expenses to make them eligible.

Question 11 – Can the waiver program "pay off" the balance of a credit card or loan if the item/service provided would be an allowable service under the waiver?

No. This is not allowable for a number of reasons. It cannot be assured that the item and/or home modification obtained/completed has met the standards as outlined in the Medicaid Waivers Manual. In addition, it is not appropriate to use waiver funds to pay off a participants' personal debt. This is the participant's debt and it is his/her responsibility to make the necessary payments. For it's part, BALTCR now recognizes these monthly payments as a legitimate medical/remedial expense, if the loan or credit card purchase was for a waiver allowable item.

Question 12 – What if a participant is already on the waiver program and they ask for a waiver allowable item (a window air conditioner or a lift chair). The care manager agrees that the item requested would be beneficial for the participant, however the care manager informs the participant that there are no waiver funds at the moment to pay for those items. The care manager informs the participant that once funds are available, the care manager will submit a request to the supervisor for the item. The participant feels she can't wait and charges the item (air conditioner or lift chair) to her credit card. I now know that I can count this monthly payment as a medical/remedial expense. My question is – once waiver funding becomes available, can the county pay off the balance to the credit card company or vendor so the participant no longer has this debt?

No. Care managers should inform participants that under waiver rules, items/services purchased prior to being funded under the waivers will not be funded by the waivers for the reasons enumerated in Question 11.

Question 13 – What do I do if the care manager finds out the participant has a debt that is an allowable medical/remedial item/service under the waiver, but no payment is being made to repay the debt?

Only actual payments can be counted as medical/remedial expenses. If the participant agrees to make monthly payments, the care manager follows the protocol described in the TA document.

The care manager should review a copy of the original receipt/invoice for the item to confirm the cost for the item itself. Next, by discussing this with the participant, the care manager learns the dollar amount the participant agrees to pay each month on the item. The care manager will relay the medical/remedial expense to the ESS. The care manager then determines how many months she will use this monthly payment as a medical/remedial expense. This is done by taking the cost of the original item and dividing it by the monthly dollar amount.

Question 14 – Can payments a participant makes to a collection agency be counted as a medical/remedial expense?

Depends upon what the debt is for. If the cost is for waiver allowable items, or a medical/remedial expense then the answer is yes. If the debt is for home repairs, or for clothes, furniture, etc. that would not be considered medical/remedial expense, the answer is no. The care manager should follow the same protocol outlined in the examples described above (collection fees and/or interest cannot be counted).

Question 15 – What if a participant tells me he is paying back a loan that he received from a family member? Can I count this as a medical/remedial expense?

Yes, if criteria described for other types of debt are met: item must be waiver allowable (i.e. not rent) and documentation of original bill and payment agreement signed by both participant and family member is provided. Just as in other cases, interest and fees are not allowable.

Question 16 – This all seems like a lot of work. Why are we doing this?

First, there are not that many participants served by the waiver program who carry this kind of debt. However, for years many care managers have said they wish it would be permissible to count as a medical/remedial expense a monthly payment on a credit card or loan for something that ordinarily the waiver would pay. Now that an Administrative Law Judge has ruled in this manner, care managers are able to allow these expenses. While it may involve some calculating and tracking, the end result is that a participant will be empowered to pay off a legitimate debt and reduce their cost share obligation over the agreed upon payment period.